



General Assembly

January Session, 2011

***Raised Bill No. 6510***

LCO No. 4057

\*04057\_\_\_\_\_INS\*

Referred to Committee on Insurance and Real Estate

Introduced by:  
(INS)

***AN ACT CONCERNING THE REGULATION OF PRIVATE TRANSFER  
FEES AND THE VALUATION OF REAL ESTATE.***

Be it enacted by the Senate and House of Representatives in General  
Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2011*) (a) As used in this  
2 section:

3 (1) "Person" means an individual, corporation, limited liability  
4 company, partnership, association, trustee or other entity capable of  
5 holding an interest in real property or any combination thereof;

6 (2) (A) "Private transfer fee" means a fee or charge payable (i) upon  
7 the conveyance and subsequent conveyance of an interest in real  
8 property located in this state, or (ii) for the right to make or accept such  
9 conveyance;

10 (B) "Private transfer fee" does not include:

11 (i) Any consideration payable by a grantee to a grantor for the  
12 conveyance of an interest in real property located in this state,  
13 including any subsequent consideration payable by such grantee for  
14 such real property based on subsequent appreciation, development or

15 sale of such real property, provided such subsequent consideration is  
16 payable on a one-time basis and the obligation to pay such  
17 consideration does not bind successors in title to such real property.  
18 For purposes of this subparagraph, "real property" includes a mineral  
19 estate, as defined in section 47-33o of the general statutes;

20 (ii) Any commission payable to a real estate broker or a real estate  
21 salesperson for the sale of real property located in this state pursuant  
22 to a contract or agreement between such broker or salesperson and a  
23 grantee or grantor, including any subsequent commission payable by  
24 such grantee or grantor for such real property based on subsequent  
25 appreciation, development or sale of such real property;

26 (iii) Any interest, fee, charge or other amount payable by a borrower  
27 to a lender pursuant to a loan secured by a mortgage against real  
28 property located in this state, including any fee payable to such lender  
29 for consenting to an assumption of such loan or conveyance of such  
30 real property subject to such mortgage, any fee or charge payable to  
31 such lender for an estoppel letter or certificate issued by such lender,  
32 and any shared appreciation interest, profit participation or other  
33 consideration payable to the lender in connection with such loan;

34 (iv) Any rent, reimbursement, fee, charge or other amount payable  
35 by a lessee to a lessor, including any fee or charge payable to such  
36 lessor for consenting to an assignment, sublease or encumbrance of a  
37 rental agreement or lease;

38 (v) Any consideration payable to the holder of an option to  
39 purchase an interest in real property or the holder of a right of first  
40 refusal or first offer to purchase an interest in real property located in  
41 this state, for such holder's waiver, release or nonexercise of such  
42 option or right;

43 (vi) Any tax, assessment, fine, fee, charge or other amount payable  
44 to or imposed by a governmental entity;

45 (vii) Any dues, assessment, fine, contribution, fee, charge or other  
46 amount payable to an association or a unit owners' association  
47 organized under chapter 828 of the general statutes, pursuant to any  
48 declaration, covenant, law, association bylaw, association rule or  
49 association regulation, including a fee or charge payable to such  
50 association for an estoppel letter or certificate issued by such  
51 association or its authorized agent;

52 (viii) Any dues, assessment, fine, contribution, fee, charge or other  
53 amount imposed by a declaration or covenant encumbering a  
54 municipality or a county or any combination thereof or a  
55 neighborhood or other area, irrespective of boundaries or political  
56 subdivision, in this state, and payable solely to an organization that is  
57 tax exempt pursuant to 26 USC 501(c) for the purpose of supporting  
58 cultural, educational, charitable, recreational, environmental,  
59 conservation or other similar activities that benefit such municipality,  
60 county, neighborhood or other area; or

61 (ix) Any dues, assessment, contribution, fee, charge or other amount  
62 payable for the purchase or transfer of a club membership related to  
63 real property located in this state;

64 (3) "Private transfer fee obligation" means an obligation arising  
65 under a declaration or a covenant recorded against the title to real  
66 property located in this state or under any contractual agreement or  
67 promise, whether or not recorded, that requires or purports to require  
68 the payment of a private transfer fee upon a conveyance or a  
69 subsequent conveyance of an interest in such real property.

70 (b) On and after October 1, 2011, no person shall impose a private  
71 transfer fee obligation. Any such obligation imposed on and after said  
72 date shall be void and unenforceable. This subsection shall not be the  
73 sole basis for validation of a private transfer fee obligation imposed  
74 prior to October 1, 2011.

75 (c) Each contract for the sale of real property located in this state

76 that is encumbered by a private transfer fee obligation imposed prior  
77 to October 1, 2011, shall include a provision disclosing the existence of  
78 such obligation, a description of such obligation and a statement that  
79 private transfer fee obligations are subject to the provisions of this  
80 section. Any such contract that violates the provisions of this  
81 subsection shall be void and unenforceable and no purchaser under  
82 such contract shall be liable to the seller for damages under such  
83 contract. A purchaser under a contract that is void and unenforceable  
84 under this subsection shall be entitled to the return of all deposits  
85 made by such purchaser in connection with the sale of such real  
86 property.

87 (d) (1) For each private transfer fee obligation imposed prior to  
88 October 1, 2011, the person to which such fee was or is paid shall  
89 record against the title of such real property, prior to December 31,  
90 2011, in the land records of the town within which such real property  
91 is located, a separate document entitled, in not less than fourteen-point  
92 bold type, "Notice of Private Transfer Fee Obligation" that meets the  
93 following requirements:

94 (A) The dollar amount of such fee if such fee is a flat amount, the  
95 percentage of the sales price that constitutes the amount of such fee or  
96 such other method by which such fee is calculated;

97 (B) If such real property is residential, actual dollar-cost examples of  
98 such fee for a home priced at two hundred fifty thousand dollars, five  
99 hundred thousand dollars and seven hundred fifty thousand dollars;

100 (C) The date or circumstances under which such obligation expires,  
101 if any;

102 (D) The purpose for which the funds from such fee will be used;

103 (E) The name of the person to which such fee was or is paid and the  
104 specific contact information for where such fee was or is sent;

105 (F) The acknowledged signature of the person to which such fee was

106 or is paid; and

107 (G) The legal description of such real property encumbered by such  
108 obligation.

109 (2) The person to which such fee was or is paid may file an  
110 amendment to the notice of changes to the contact information for such  
111 person, provided such amendment includes the recording information  
112 of the notice and the legal description of such real property  
113 encumbered by such obligation.

114 (e) (1) Real property located in this state that is encumbered by a  
115 private transfer fee obligation may become unencumbered by such  
116 obligation if:

117 (A) The person to which such fee was or is paid fails to comply with  
118 all the requirements of subdivision (1) of subsection (d) of this section  
119 prior to December 31, 2011; or

120 (B) A grantor of such real property requests in writing, to the person  
121 to which the private transfer fee was or is paid and the address shown  
122 in the contact information of the notice required under subdivision (1)  
123 of subsection (d) of this section, a statement showing the private  
124 transfer fee amount that is payable upon the conveyance of such real  
125 property and such person fails to provide such statement in writing  
126 within thirty days of the date of the grantor's written request.

127 (2) In such event, a grantor of such real property shall:

128 (A) Record an affidavit conforming to the requirements of section  
129 47-12a of the general statutes in the land records of the town within  
130 which such real property is located; and

131 (B) Upon the filing of such affidavit, not be subject to such  
132 obligation. Such grantor may thereafter convey such real property  
133 without paying the private transfer fee and such real property shall  
134 thereafter be conveyed free and clear of such obligation and fee.

135 (3) When an affidavit has been recorded as set forth in subdivision  
136 (2) of this subsection, it shall be admissible as prima facie evidence that  
137 (A) the grantor sent a written request to the person to whom the  
138 private transfer fee was or is paid for a statement showing the private  
139 transfer fee amount that is payable upon the conveyance of such real  
140 property, and (B) such person failed to provide such statement in  
141 writing within thirty days of the date of the grantor's written request.

142 (f) Violation of this section shall constitute an unfair or deceptive act  
143 or practice under subsection (a) of section 42-110b of the general  
144 statutes. Where an agent acts on behalf of a principal to impose a  
145 private transfer fee obligation, liability shall be assessed to the  
146 principal.

147 Sec. 2. Section 20-526 of the general statutes is repealed and the  
148 following is substituted in lieu thereof (*Effective October 1, 2011*):

149 (a) The provisions of sections 20-500 to 20-528, inclusive, concerning  
150 the certification, licensing, limited licensing or provisional licensing of  
151 real estate appraisers shall not apply to (1) any person under contract  
152 with a municipality who performs a revaluation of real estate for  
153 assessment purposes pursuant to section 12-62, and (2) subject to the  
154 provisions of subsection (b) of this section, any licensed real estate  
155 broker or real estate salesperson who estimates the value of real estate  
156 as part of a market analysis performed for (A) the owner of the real  
157 estate or a designee of the owner, (B) a mortgagee, as defined in section  
158 49-8a, or such mortgagee's agent, or (C) an attorney, on such terms as  
159 may be agreed upon between such owner or the owner's designee,  
160 mortgagee or mortgagee's agent, or attorney and the real estate broker  
161 or real estate salesperson. [.]

162 (b) (1) The estimate of value set forth in subdivision (2) of subsection  
163 (a) of this section shall be for the purpose of (A) a prospective listing or  
164 sale of such real estate, (B) providing information to the seller or  
165 landlord under a listing agreement, [or] (C) providing information to a  
166 prospective buyer or tenant under a buyer or tenant agency

167 agreement, or (D) providing information to the attorney for use in the  
168 representation of such attorney's client, provided such estimate of  
169 value shall not be referred to or be construed as an appraisal.

170 (2) If such owner specified in subdivision (2) of subsection (a) of this  
171 section executes a listing contract with the real estate broker or real  
172 estate salesperson who so estimated the value of the real estate for the  
173 sale of the real estate and such real estate contains any building or  
174 other structure, occupied or intended to be occupied by no more than  
175 four families, then such owner shall be credited against any  
176 compensation the owner pays on account of such listing contract for  
177 any fee paid by the owner for such estimate of value.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	New section
Sec. 2	October 1, 2011	20-526

Section 1	October 1, 2011	New section
Sec. 2	October 1, 2011	20-526

***Statement of Purpose:***

To regulate the imposition of private transfer fee obligations on the conveyance of real property located in this state, and to add mortgagees or mortgagees' agents and attorneys to the list of people to whom a licensed real estate broker or real estate salesperson may provide an estimated valuation of real estate as part of a market analysis.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*